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Fee Amt: \$37.00 Page 1 of 7
Revenue Tax: \$0.00
Polk County Iowa
TIMOTHY J. BRIEN RECORDER
File# 2006-00097468
BK 11612 PG 166-172

WHEN RECORDED RETURN TO: City of Ankeny, City Clerk, 410 West First Street, Ankeny, IA 50023

Preparer Information: John Peterson, 220 West First Street, Ankeny, Iowa 50023 (515) 963-3553

SPACE ABOVE THIS LINE FOR RECORDER

Development Agreement

Whereas, DML Land Development, L.C., an Iowa Limited Liability Company, (hereinafter "Developer") is in the process of developing property in the western portion of the city of Ankeny legally described on Exhibit "A" (hereinafter Developer's Property); and

Whereas, Rock Creek Phase III Sanitary Trunk Sewer Project will need to be constructed to facilitate the development of the Developer's Property as well as other areas of the City of Ankeny; and

Whereas, the City of Ankeny, Iowa (hereinafter "City") has in its capital improvement plan the construction of the Rock Creek Phase III Sanitary Trunk Sewer Project but is not in the position to finance construction of the sanitary sewer during the 2006 construction season; and

Whereas, the City is agreeable to allowing the construction of said sanitary sewer ahead of the City's schedule under the following terms and conditions.

Now, therefore, it is hereby agreed as follows:

1. The City, working with the Developer, has designed and completed all plans and specifications for the construction of the sanitary sewer known as the Rock Creek Phase III Sanitary Trunk Sewer Project. The engineering cost estimate for design and construct services for the sanitary sewer is \$30,000.00.

2. The Developer agrees to provide and/or assign sanitary sewer easements it has obtained to date, to the City, in a form reasonably agreed to between the parties. In addition, the Developer agrees to provide, at no charge to the City, a permanent sanitary sewer easement across the Developer's Property to the City prior to the City's acceptance of the sanitary sewer project.

3. The City has gone through a public bidding for construction of the sanitary sewer in compliance with the plans and specifications prepared and has chosen the lowest responsible bidder for construction of the sanitary sewer. Holland Contracting Corp. was the lowest responsible bidder with a bid of \$709,516.00.

4. For any portion of the sanitary sewer on Developer's Property, the Developer agrees to convey the sanitary sewer to the City, after construction, and to provide such bonds, including a maintenance bond, as are required by the City for all sanitary sewer projects.

5. The City awarded the contract to Holland Contracting Corp. on April 3, 2006, and agrees to proceed to construct the sanitary sewer as shown on the approved construction plans for the Rock Creek Phase III Trunk Sewer Project as soon as possible and to diligently pursue completion of the sanitary sewer.

Notwithstanding anything set out in this paragraph, both parties understand and acknowledge that the City has not yet acquired all easements and that construction of the sanitary sewer is dependant upon the acquisition of said easements.

6. The Rock Creek Phase III Sanitary Trunk Sewer extension will benefit approximately 497.55 acre as shown on Exhibit "B" and legally described on Exhibit "C". Upon completion of the sanitary sewer project, the City agrees to include the benefited area, as shown on said exhibits in Rock Creek Sewer Connection Fee District at the time of acceptance of the sanitary sewer project by the City. Said district shall distribute the costs of the Rock Creek Phase III Sanitary Trunk Sewer, Rock Creek Phase I Sanitary Trunk Sewer, Rock Creek Phase II Sanitary Trunk Sewer, and estimated costs of future trunk sewer projected within the Rock Creek basin over the entire benefited acreage of the larger Rock Creek Sewer Connection Fee District.

7. The Developer agrees to pay the City for all costs associated with the Rock Creek Phase III Sanitary Trunk Sewer extension as they come due; including but not limited to engineering design and construction service fees, easement acquisition costs and construction costs (hereinafter "Construction Costs").

The City agrees to reimburse the Developer for the Construction Costs incurred by the Developer in the construction of the Rock Creek Phase III Sanitary Trunk Sewer as connection fees are paid by benefited property owners of the Rock Creek Phase III Sanitary Sewer, as shown on Exhibits "B" and "C". Fees within this area shall be paid first to the Developer with any remaining fees paid to the City as part of the improvements constructed within the larger Rock Creek Sanitary Sewer Connection Fee District.

The City agrees to establish the connection fees with an interest rate on the unpaid reimbursable amounts at the rate of 8.00% per year. The interest will be accrued annually starting one year following the acceptance of the sanitary sewer project. The City agrees to reimburse the Developer for the Construction Costs for a period of ten (10) years; or until such time as all Construction Costs reimbursements have been made, whichever occurs first.

8. The Developer agrees to pay such connection fees as established by the City, such fees being established equally for all benefited properties in the service area.

9. In the event the Developer fails to comply with any term of this Agreement, the City may take whatever action the City deems necessary and appropriate, including, but not limited to, an action for condemnation to obtain the easement required for the sanitary sewer and the installation of the same for the benefit of the City. In such event, the City shall be entitled to reimbursement for all costs, fees and award amounts, if any, incurred by the City resulting from the Developer's failure to comply with this Agreement. Provided, however, that nothing contained in this paragraph shall be construed to limit the remedies available to the City.

9. The terms of this Agreement shall be deemed to be covenants running with the land and shall be binding upon the successors and assigns of the Developer.

In Witness Whereof, the City has caused this Agreement to be duly executed in its name and on its behalf by its Mayor and its seal is hereto duly affixed and attested by its Clerk and Developer has caused this Agreement to be executed by its duly authorized representative.

Dated the 3rd day of April, 2006.

The City of Ankeny, Iowa

DML Land Development, L.C.

By: [Signature]
Steven D. VanOort, Mayor

By: [Signature]
Print Name: MARK BOCKENSTEDT
Title: MANAGER

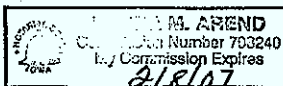
ATTEST:

By: [Signature]
Pamela DeMouth, City Clerk



STATE OF IOWA, POLK COUNTY, ss:

On this 3rd day of April, 2006, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Steven D. Van Oort and Pamela DeMouth, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ankeny, Iowa; that the seal affixed to the foregoing instrument to which this is attached is the corporate seal of the City; that the instrument was signed and sealed on behalf of the City by authority of its City Council, as contained in Ordinance Resolution No. 2006-123 passed by resolution of the City Council under Roll Call No. of the City Council on the 3rd day of April, 2006; and that Steven D. Van Oort and Pamela DeMouth, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the City, by it and by them voluntarily executed.



Debra M. Arend
Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF POLK, ss:

On the 3rd day of April, 2006, before me, a Notary Public in and for the said State, personally appeared Mark Bockenstedt, to me personally known, who, being by me duly sworn, did say that that person is Manager of said limited liability company; that no seal has been procured by the said limited liability company and that said instrument was signed on behalf of the said limited liability company by authority of its managers and the said Manager acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



Christine Reitan-Myers
Notary Public in and for said State of Iowa

EXHIBIT "A"

A PART OF THE SOUTHEAST 1/4 AND A PART OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., ANKENY, POLK COUNTY, IOWA, ALL OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., ANKENY, POLK COUNTY, IOWA; THENCE N89°-43'-49"W, ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 17 AND ALONG THE NORTH LINE OF OUTLOT "Z" LAKERIDGE COVE PLAT 2, A DISTANCE OF 1956.19 FEET; THENCE N00°-29'-56"E A DISTANCE OF 451.00 FEET; THENCE N89°-43'-33"W A DISTANCE OF 658.97 FEET, TO THE EAST RIGHT-OF-WAY LINE OF HIGHWAY 415 AS IT IS PRESENTLY ESTABLISHED; THENCE N01°-06'-51"W, ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 196.32 FEET; THENCE N04°-33'-53"W, ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 256.06 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG SAID EAST RIGHT-OF-WAY AND ALONG A 1996.10 FEET RADIUS CURVE CONCAVE SOUTHWESTERLY, A DISTANCE OF 1150.14 FEET, SAID CURVE HAS A CENTRAL ANGLE OF 33°00'49", A CHORD BEARING OF N21°-20'-33"W AND A CHORD LENGTH OF 1134.30 FEET; THENCE N36°-58'-58"W, ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 256.15 FEET; THENCE N41°-34'-10"W, ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 274.79 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF N.W. 98TH AVENUE AS IT IS PRESENTLY ESTABLISHED; THENCE N12°-07'-24"E, ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 40.19 FEET; THENCE N48°-28'-17"E, ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 30.01 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG SAID SOUTH RIGHT-OF-WAY AND ALONG A 513.00 FEET RADIUS CURVE CONCAVE SOUTHEASTERLY, A DISTANCE OF 361.26 FEET, SAID CURVE HAS A CENTRAL ANGLE OF 40°20'54", A CHORD BEARING OF N68°-37'-09"E AND A CHORD LENGTH OF 353.84 FEET; THENCE N88°-41'-03"E, ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 253.10 FEET; THENCE NORTHWESTERLY ON SAID SOUTH RIGHT-OF-WAY AND ALONG A 195.20 FEET RADIUS CONCAVE TO THE SOUTHWEST A DISTANCE OF 101.74 FEET, SAID CURVE HAS A CENTRAL ANGLE OF 29°51'52", A CHORD BEARING OF N75°-44'-49"W AND A CHORD LENGTH OF 100.60 FEET; THENCE N88°-41'-03"E, ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 257.04 FEET; THENCE S89°-38'-56"E, PARALLEL WITH AND 33.00 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHEAST 1/4, A DISTANCE OF 1349.26 FEET; THENCE N00°-17'-07"E A DISTANCE OF 33.00 FEET TO THE NORTH LINE OF SAID SOUTHEAST 1/4; THENCE S89°-38'-56"E, ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 A DISTANCE OF 1281.25 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 17, AND TO THE NORTHWEST CORNER OF LOT H, WATERCREST PLAT 4, AN OFFICIAL PLAT, ANKENY, POLK COUNTY, IOWA; THENCE S00°-24'-45"W, ALONG THE EAST LINE OF SAID SOUTHEAST 1/4 AND ALONG THE WEST LINE OF SAID WATERCREST PLAT 4 AND WATERCREST PLAT 3 A DISTANCE OF 2623.21 FEET; TO THE SOUTHEAST CORNER OF SAID SECTION 17, AND TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 163.076 ACRES MORE OR LESS.



EXHIBIT "C"

-EX BEG 22.96F E OF SW COR & ON E ROW LN HWY 415 THN NW ALNG E ROW LN 451.13F E 658.97F S 451F TO S LN W ALNG S LN 646.25F TO POB- SE 1/4 LESS 3A RD SEC 17-80-24; AND

-EX BEG 307.8F E & 79.1F SE OF NW COR THN ELY 695.8F SELY 101.4F W 253.1F SWLY 431F NW 270.9F TO POB- NE OF NE ROW OF RELOC HWY 415 BEG 307.8F E OF NW COR THN SELY TO E LN E 1/2 SW 1/4 LESS RD SEC 17-80-24; AND

PARCEL G BK 11069 PG 381 BEG 22.96F E OF SW COR & ON E ROW LN HWY 415 THN NW ALNG E ROW LN 451.13F E 658.97F S 451F TO S LN W ALNG S LN 646.25F TO POB SE 1/4 SEC 17-80-24; AND

-EX S 87F RD- & -EX BEG 152.3F W & 87F N OF SE COR THN W 71.2F NE 77.8F S 33F TO POB- W OF W ROW RELOC HWY 415 BEG 152.3F W OF SE COR THN NLY TO N LN SE 1/4 SW 1/4 SEC 17-80-24; AND

NE 1/4 LYG SW OF RELOC HWY 415 SW 1/4 LESS RD SEC 17-80-24; AND

-EX BEG 220F NE OF SW COR SE 1/4 NW 1/4 OF SEC THN SE 79.5F NWLY 273F NELY 53.7F SE 203.4F TO POB RD EAS- LT 1 VADEN PLACE; AND

-EX BEG W COR NE 35F SE 63.4F SWLY 53.7F TO N ROW HWY 415 NW 84.2F TO POB- LOT A & ALL LOT 3 VADEN PLACE; AND

-EX BEG SW COR THN N 52.8F SE 41.6F SW 35F TO POB- LOT 4 SUBJ TO .07A POND EAS VADEN PLACE; AND

LT 2 VADEN PLACE; AND

-EX BEG 33F N & 30F W OF SE COR THN W 565.13F NE 147.36F E 420.52F S 26.78F TO POB RD EAS & E 30F N 434F S 467F & MINK ACRES & VADEN PLACE- E 1/2 NW 1/4 LESS RD SEC 17-80-24; AND

-EX W 251F N 434F S 467F- W 1/2 NE 1/4 LESS 3 A RD SEC 17-80-24; AND

BEG 33F N OF CNT OF SEC THN E 17F NW 56.8F W 30.01F N 407.22F E 281F S 434F W 234F E 1/2 NW 1/4 & W 1/2 NE 1/4 SEC 17-80-24; AND

S 1/2 E 1/2 NE 1/4 LESS 2 A ROAD SEC 17-80-24; AND

-EX E 433F S 1089F- S 1/2 W 1/2 NW 1/4 LESS RD SEC 16-80-24; AND

E 433F S 1089F W 1/2 NW 1/4 LESS RD SEC 16-80-24; AND

OUTLOT Z WATERCREST PLAT 4; AND
N 12 A NE 1/4 SW 1/4 LESS .30 A RD SEC 16-80-24; AND

S 28 A NE 1/4 SW 1/4 LESS 1.70 A RD SEC 16-80-24.